

See note: Who Fills out the EAR? u

<b>Enforcement Action Referral</b> Rev. 3/18/2002	Inv. #	707324	Initiated by: Region, LP, Central:	Region
	Enf Case		Name of Initiating Office:	REGION 12 - HOUSTON
	Media	IHW	MSW	
	Code:			

**Section 1: Respondent**

ID	CN600618946		Role	RESP PARTY
Name	CES ENVIRONMENTAL SERVICES INC			
Mailing Address	Street/PO Box	4904 GRIGGS RD		
	City/State/Zip	HOUSTON, TX 77021		
	Phone	(713) 676-1460	Fax	

<b>Primary Contact (NOE Contact)</b>				
Name	MATT BOWMAN	Organization	CES ENVIRONMENTAL SERVICES, INC.	
Title	President And Registered Agent	Phone	(713) 676-1460	Fax (713) 676-1676

**Section 2: Respondent's Facility/Operation (F/O)**

F/O ID	RN100693282			
F/O Name	CES ENVIRONMENTAL SERVICES			
F/O Physical Address	4904 GRIGGS RD			
Location City	HOUSTON	Location Zip	77021	
Location County	HARRIS	Operational Status	Active	
Primary Business Activity	Commercial tanker wash/waste pr	Type of Small Entity	Small Business	
SNC or HPV?	N/A	SIC Code	4212	
Potentially Affected Area	Air, water, land, and human health are potentially impacted.	Complaints Closed	0	
List any NOV's? Orders for same or similar violations at this F/O in the past 5 years.	N/A			
Additional IDs	23198 30900 39048 A85775 TXD008950461			

**Section 3: Summary of Violations**

See note: Inclusion of Resolved or Verbal Violations u

Viol Num	Requirements Cited Violation Description	Violation Dates		Investigation/ File Review	Date of...		CAT
		Start	End		NOV	NOE	
365678	30 TAC Chapter 335.6(c)	Unknown	Unknown	11/05/2008		08/21/2009	C
CES failed to update Notice of Registration to accurately reflect actual conditions at the facility.							
365745	30 TAC Chapter 335.2(b)	Unknown	Unknown	11/05/2008		08/21/2009	A
	PERMIT Provision V.C.1	Unknown	Unknown	11/05/2008		08/21/2009	A
CES failed to limit storage of hazardous waste to only those units specified in Permit 39048.							
365747	30 TAC Chapter 324.6	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 279.22(c)	Unknown	Unknown	11/05/2008		08/21/2009	C
CES failed to label its used oil containers and tanks in accordance with state and federal regulations. During the site investigation on November 5, 2008, two 55-gallon drums of used oil were being stored on a wooden pallet at the facility. Investigators also observed that neither the used oil processing nor the used oil feed tanks were labeled with the words "used oil."							
372229	30 TAC Chapter 335.6(h)	Unknown	Unknown	11/05/2008		08/21/2009	B
Failure to submit required recycling notification forms for the MEK waste stream to TCEQ 90 days prior to engaging in recycling activities.							
372546	30 TAC Chapter 335.69(a)(2)	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 262.34(a)(2)	Unknown	Unknown	11/05/2008		08/21/2009	C
Failure to mark hazardous waste containers with the words "hazardous waste" and an accumulation start date.							
372607	30 TAC Chapter 335.112(a)(8)	Unknown	Unknown	11/05/2008		08/21/2009	C
	30 TAC Chapter 335.69(a)(1)(A)	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 262.34(a)(1)(i)	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 265.173(a)	Unknown	Unknown	11/05/2008		08/21/2009	C
CES failed to keep containers of hazardous waste closed, except when adding or removing wastes.							
372615	30 TAC Chapter 335.112(a)(8)	Unknown	Unknown	11/05/2008		08/21/2009	C
	30 TAC Chapter 335.69(a)(1)(A)	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 262.34(a)(1)(i)	Unknown	Unknown	11/05/2008		08/21/2009	C
	40 CFR Chapter 265.174	Unknown	Unknown	11/05/2008		08/21/2009	C
CES failed to conduct inspections for the tanker trucks containing hazardous wastes (methanol) to be reclaimed at the facility.							
372747	30 TAC Chapter 335.2(b)	Unknown	Unknown	11/05/2008		08/21/2009	A
	PERMIT Provision II A.1	Unknown	Unknown	11/05/2008		08/21/2009	A
Failure to obtain a permit modification prior to operating facility units in excess of the volume equivalent of 6,500 gallons identified in Table V.C of permit 39048.							
372757	30 TAC Chapter 335.112(a)(9)	Unknown	Unknown	11/05/2008		08/21/2009	A
	30 TAC Chapter 335.69(a)(1)(B)	Unknown	Unknown	11/05/2008		08/21/2009	A
	40 CFR Chapter 262.34(a)(1)(ii)	Unknown	Unknown	11/05/2008		08/21/2009	A
	40 CFR Chapter 265.192(a)	Unknown	Unknown	11/05/2008		08/21/2009	A
	40 CFR Chapter 265.193(a)(1)	Unknown	Unknown	11/05/2008		08/21/2009	A
CES failed to have adequate secondary containment for Tank 1002, which was determined to be storing hazardous waste (EPA waste code D018), on March 18, 2009.							
372771	30 TAC Chapter 335.112(a)(9)	Unknown	Unknown	11/05/2008		08/21/2009	B
	30 TAC Chapter 335.69(a)(1)(B)	Unknown	Unknown	11/05/2008		08/21/2009	B
	40 CFR Chapter 262.34(a)(1)(ii)	Unknown	Unknown	11/05/2008		08/21/2009	B
	40 CFR Chapter 265.195(b)	Unknown	Unknown	11/05/2008		08/21/2009	B
CES failed to conduct daily inspections for Tank 1002, which are required for tanks managing hazardous waste.							
374392	30 TAC Chapter 335.4(2)	Unknown	Unknown	11/05/2008		08/21/2009	B
	30 TAC Chapter 335.4(3)	Unknown	Unknown	11/05/2008		08/21/2009	B
Failure to maintain facility in a manner to prevent nuisance conditions and endangerment of the public health and welfare.							

## Section 4: Additional Discussion

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## Section 5: Additional Issues

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Has the generator completed a hazardous waste determination for each solid waste generated?

CES is to provide the detailed procedures regarding waste determinations of all wash water and explain how the wash water is managed. Of particular interest is how CES manages the first wash batches of wastewater, and how the company determines whether or not these first wash batches can be treated on site. When they cannot be treated on site, where is the wastewater stored until it is shipped off site for disposal?

Has the generator documented waste classification determinations on all industrial (including non-hazardous) solid wastes? Check the method(s) used for determination:

On November 5, 2008, strong organic odors were observed near waste management unit 103, a nonhazardous sludge box. Waste determination information supplied by CES indicated that this waste stream had last been analyzed in May 27, 2008. TCEQ is concerned that the sludge in the open-topped box is not tested frequently enough to be certain that it is nonhazardous, since the sludge originates from many different drums and tanker trucks.

CES is to provide sampling/testing records from waste stream 90025191, for the calendar years 2008 and 2009.

Item #3

On December 12, 2008, TCEQ requested information regarding CES's standard operating procedures for determining the RCRA-empty status under 40 CFR 261.7 of incoming tankers and containers destined for cleaning. On January 20, 2009, CES responded with the procedures followed for the tank wash area of the facility. In those procedures, there were no details regarding how the determination is made as to whether a particular vessel is RCRA empty when it arrives, and what documentation is maintained for each vessel when this determination is made.

CES is to develop and submit the procedure used by employees when making the determination regarding the RCRA-empty status of incoming vessels intended for cleaning. If CES intends to claim that vessels are RCRA empty when they arrive for cleaning, documentation must be maintained showing that this determination has been made to minimize the chances that hazardous wastes contained in the vessel are not being treated via dilution from the steam and other cleaning materials used in the tank wash area. Also, CES is requested to provide details of waste management procedures for the heels when it is determined that the incoming vessels are not RCRA empty.

Item #4

CES is to contact the TCEQ IHW Remediation and Corrective Action Section to determine the current status of WMUs 002 through 009, which are currently listed as closure pending, and update its NOR to reflect the current status of the WMUs.

In addition, it was noted during the March 17, 2009, site visit that the former first flush tank (WMU 101) had been removed from the site without following the TCEQ guidelines for inactivation and closure of a waste management unit. Based on evidence gathered on March 18, 2009, it appears that hazardous wastes may have been stored in this WMU. CES is to proceed with inactivation and closure of the tank pursuant to the guidelines found in 30 TAC 335.8, and to ensure the WMU is noted as closed on its NOR when the process has been completed.

Item #6

CES claims that the sludge generated in the activated carbon

canisters in the solvent recovery process at the facility are exempt from regulation as solid wastes. TCEQ is concerned that the sludges may be exposed to wastes listed in 40 CFR 261, and thus not be eligible for this exemption.

CES is to provide documentation to TCEQ in support of its claim of the sludge exemption. This documentation should include the process by which CES ensures that listed hazardous wastes are not routed through the scrubbers in the solvent reclamation process at the facility.

Item #7

CES's in-house laboratory provides analytical data that is used to make determinations for compliance purposes (i.e. determines whether wastes can be treated on site, determines if waste oils are spec or off-spec, makes hazardous waste determinations, etc.).

CES is to submit verification that its on-site laboratory has achieved National Environmental Laboratory Accreditation (NELAC) for its laboratory, or other certifications that indicate that the laboratory's analytical determinations can be used to make sound regulatory decisions.

Item #10

On March 17, 2009, two trucks (Nos. 7253 and 221) containing waste methanol for recycling were observed at CES. Information gathered during the inspection did not reveal the ownership of these trucks, and a manifest (No. 005592569) for truck No. 221 showed that the truck left the generator's facility on March 13, 2009, and arrived at CES on March 16, 2009. CES is listed as the transporter on this manifest.

CES is to submit documentation regarding ownership of the two tanker trucks to the TCEQ Houston Region Office, along with an explanation of where and how this waste stream was managed during the period of time it left the generator's facility and was accepted at CES.

Proper management of mixtures of UO & hazardous waste.

Comparable fuels and syngas fuels are subject to solid waste regulations, unless they meet the exemptions found in 40 CFR §261.38. TCEQ is concerned that the materials that CES sells for fuels do not meet one (or more) of the following exemptions:

\*Minimum heating value (5,000 BTU/lbs)

\*Viscosity threshold of 50 cs, as fired

\*Constituent specifications found in Table 1 of 40 CFR §261.38.

CES is to submit documentation to TCEQ proving that the used oils processed and sold as fuel at CES are used oil and are exempt from regulation as solid wastes.

40 CFR Part 265 Subpart I, relating to Use and Management of Containers?

On March 17, 2009, four 55-gallon drums containing hazardous (D001) wastes were observed in WMU 105. According to CES personnel, these drums were generated off site by a third party and were transported to CES for bulking, and later disposed of at a hazardous waste treatment facility in Arkansas.

CES is to provide an explanation as to why these drums of hazardous wastes were accepted for transport without proper labels and markings.

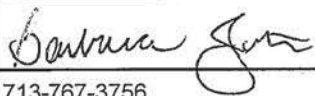
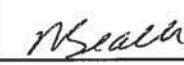
Item #1

On March 17, 2009, two trucks containing a methanol waste stream destined for recycling were observed at CES. On January 20, 2009, the TCEQ Houston Region Office received copies of Notifications for Receiving and Recycling Hazardous or Industrial Waste from CES for the following waste streams:

\*Water, methanol, and methylene chloride mixture,  
 \*Spent pharmaceutical solvent mixture,  
 \*Vinyl acetate, water, methanol, methylene acetate, ethylene vinyl  
 acetate, and ethylene vinyl mixuter.

CES is to specify which, if any, of the above notifications applies to  
 the methanol waste stream observed on site on March 17, 2009.

### Section 6: Information About Initiating Office

	<b>Name</b>	BARBARA JOHNSTON	<b>Date</b>	8/21/09	
	<b>Signature</b>			<b>E-Mail</b>	BJOHNSTO@tceq.state.tx.us
	<b>Phone</b>	713-767-3756			
	<b>Name</b>	NICOLE BEALLE	<b>Date</b>	8/21/09	
	<b>Signature</b>			<b>E-Mail</b>	NBEALLE@tceq.state.tx.us
	<b>Phone</b>	7137673623			